

By: Isett

H.J.R. No. 48

A JOINT RESOLUTION

1 proposing a constitutional amendment concerning the restriction on
2 the rate of growth of state appropriations and establishing three
3 special funds to replace the economic stabilization fund.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 22, Article VIII, Texas Constitution, is
6 amended to read as follows:

7 Sec. 22. (a) In no biennium shall the rate of growth of
8 appropriations from all sources of revenue except the federal
9 government [~~state tax revenues not dedicated by this constitution~~]
10 exceed a rate equal to the sum of the estimated rate of growth of the
11 state's population and the estimated rate of inflation in the state
12 [~~economy~~]. In this subsection, the rate of growth of
13 appropriations from the current biennium to the next biennium is
14 the percentage difference between:

15 (1) the lesser of:

16 (A) the amount of money appropriated for the
17 current biennium from all sources of revenue other than the federal
18 government, as cumulatively estimated by the comptroller at the
19 times the comptroller endorsed, in accordance with Article III,
20 Section 49a, of this constitution, the comptroller's certificate on
21 the bills making the appropriations; and

22 (B) the amount of money actually appropriated for
23 the current biennium from all sources of revenue other than the
24 federal government, using the most recently available information;

1 and

2 (2) the amount of money appropriated for the next
3 biennium from all sources of revenue other than the federal
4 government, as finally estimated by the comptroller at the times
5 the Acts making appropriations are considered by the comptroller
6 under Article III, Section 49a, of this constitution.

7 (b) The legislature shall provide by general law procedures
8 to implement Subsection (a) of this section [~~subsection~~].

9 (c) [~~(b)~~] If the legislature by adoption of a resolution
10 approved by a record vote of two-thirds [~~a majority~~] of the members
11 of each house finds that an emergency exists and identifies the
12 nature of the emergency, the legislature may provide for
13 appropriations in excess of the amount authorized by Subsection (a)
14 of this section. The excess authorized under this subsection may
15 not exceed the amount specified in the resolution.

16 (d) Appropriations may not [~~(c) In no case shall~~
17 ~~appropriations~~] exceed revenues as provided in Article III, Section
18 49a, of this constitution. Nothing in this section shall be
19 construed to alter, amend, or repeal Article III, Section 49a, of
20 this constitution.

21 SECTION 2. Section 49a, Article III, Texas Constitution, is
22 amended by adding Subsection (c) to read as follows:

23 (c) No bill containing an appropriation of money from any
24 source except the federal government shall be considered as passed
25 or be sent to the Governor for consideration until and unless the
26 Comptroller of Public Accounts endorses the Comptroller's
27 certificate thereon showing that the appropriation does not

1 contravene the limitation on the rate of growth of appropriations
2 imposed by Section 22, Article VIII, of this constitution. When the
3 Comptroller finds that a bill contains an appropriation that
4 contravenes the limitation on the rate of growth of appropriations,
5 the Comptroller shall endorse that finding on the bill, return the
6 bill to the House from which it originated, and immediately notify
7 the House of Representatives and the Senate of the finding.

8 SECTION 3. Section 49-g, Article III, Texas Constitution,
9 is amended to read as follows:

10 Sec. 49-g. (a) There are established as special funds [~~The~~
11 ~~economic stabilization fund is established as a special fund~~] in
12 the state treasury an emergency expense fund, a budget
13 stabilization fund, and a property tax payers rebate fund.

14 (b) For purposes of this subsection, general revenue is
15 considered encumbered on the last day of a state fiscal biennium
16 only to the extent that the revenue is subject to payment for
17 particular identifiable and legally enforceable obligations of
18 this state that were incurred on or before that day. Not [~~The~~
19 ~~comptroller shall, not~~] later than the 90th day of each state fiscal
20 biennium, the comptroller shall transfer:

21 (1) to the emergency expense fund three percent
22 [~~economic stabilization fund one-half~~] of any unencumbered
23 positive balance of general revenues on the last day of the
24 preceding biennium;

25 (2) to the budget stabilization fund 15 percent of any
26 unencumbered positive balance of general revenues on the last day
27 of the preceding biennium; and

1 (3) to the property tax payers rebate fund the
2 unencumbered positive balance of general revenues on the last day
3 of the preceding biennium that remains after the transfers under
4 Subdivisions (1) and (2) of this subsection are performed. [~~If~~
5 necessary, the comptroller shall reduce the amount transferred in
6 proportion to the other amounts prescribed by this section to
7 prevent the amount in the fund from exceeding the limit in effect
8 for that biennium under Subsection (g) of this section.]

9 (c) Money in the emergency expense fund may be appropriated
10 only on an affirmative vote of two-thirds of all members of each
11 house of the legislature. Money in the emergency expense fund may
12 not be appropriated or transferred from the fund except in
13 accordance with an appropriation authorized by this subsection.
14 Money appropriated from the emergency expense fund may be spent
15 only for a purpose that:

16 (1) is related to preserving the health, safety, or
17 general welfare of the residents of this state from a threat to
18 their health, safety, or welfare caused by an extraordinary event
19 or occurrence that could not reasonably have been foreseen or
20 prevented; and

21 (2) requires an immediate expenditure to meet the
22 purpose described by Subdivision (1) of this subsection.

23 (d) Money in the budget stabilization fund may be
24 appropriated only on an affirmative vote of two-thirds of all
25 members of each house of the legislature. Money in the budget
26 stabilization fund may not be appropriated or transferred from the
27 fund except in accordance with an appropriation authorized by this

1 subsection. Money in the budget stabilization fund may be
2 appropriated only for a purpose described by Subsection (1) of this
3 section and only if:

4 (1) anticipated revenues for the then current state
5 fiscal biennium are not sufficient to cover appropriations already
6 made for the biennium; or

7 (2) anticipated revenues for the next state fiscal
8 biennium are not sufficient to cover a current services budget.

9 (e) Money in the property tax payers rebate fund may be
10 appropriated only for the purposes of making a rebate of the surplus
11 revenues, interest, and other earnings or money held in the fund to
12 this state's property tax payers and of paying administrative costs
13 necessary to make the rebate. During each regular session of the
14 legislature, the legislature shall determine whether the property
15 tax payers rebate fund contains enough money to make a reasonably
16 substantial rebate to property tax payers after the administrative
17 costs of making the rebate are paid. The legislature may establish
18 a procedure by general law for making rebates authorized by this
19 subsection. Money in the property tax payers rebate fund may not be
20 appropriated or transferred from the fund except in accordance with
21 an appropriation authorized by this subsection.

22 (f) Not later than the 90th day of each fiscal year, the
23 comptroller of public accounts shall transfer from general revenue
24 [to the economic stabilization fund] the amounts prescribed by
25 Subsections (g) and (h) [(d) and (e)] of this section. [However, if
26 necessary, the comptroller shall reduce proportionately the
27 amounts transferred to prevent the amount in the fund from

1 ~~exceeding the limit in effect for that biennium under Subsection~~
2 ~~(g) of this section.]~~

3 (g) [~~(d)~~] If in the preceding year the state received from
4 oil production taxes a net amount greater than the net amount of oil
5 production taxes received by the state in the fiscal year ending
6 August 31, 1987, the comptroller shall transfer [~~to the economic~~
7 ~~stabilization fund~~] an amount equal to 75 percent of the difference
8 between those amounts to the funds established by this section,
9 distributed among the funds in the same proportions as provided by
10 Subsection (b) of this section for transfers of surplus revenue
11 under that subsection. The comptroller shall retain the remaining
12 25 percent of the difference as general revenue. In computing the
13 net amount of oil production taxes received, the comptroller may
14 not consider refunds paid as a result of oil overcharge litigation.

15 (h) [~~(e)~~] If in the preceding year the state received from
16 gas production taxes a net amount greater than the net amount of gas
17 production taxes received by the state in the fiscal year ending
18 August 31, 1987, the comptroller shall transfer [~~to the economic~~
19 ~~stabilization fund~~] an amount equal to 75 percent of the difference
20 between those amounts to the funds established by this section,
21 distributed among the funds in the same proportions as provided by
22 Subsection (b) of this section for transfers of surplus revenue
23 under that subsection. The comptroller shall retain the remaining
24 25 percent of the difference as general revenue. For the purposes
25 of this subsection, the comptroller shall adjust the comptroller's
26 ~~his~~ computation of revenues to reflect only 12 months of
27 collection.

1 (i) [~~(f)~~] The legislature may transfer or appropriate
2 additional money [~~amounts~~] to a fund established by this section
3 [~~the economic stabilization fund~~]. Interest and other earnings
4 earned on money in a fund established by this section accrue to that
5 fund. Notwithstanding Subsections (c), (d), and (e) of this
6 section, an amount in a fund equal to the amount of unexpended money
7 deposited in the fund by legislative transfer or appropriation and
8 the amount of unexpended interest or other earnings on money
9 deposited in the fund by legislative transfer or appropriation may
10 be appropriated as provided by the General Appropriations Act or
11 transferred from the fund as provided by general law. The
12 legislature by general law may establish any necessary accounting
13 principles applicable to the fund for purposes of this subsection.

14 (j) To the extent that the reports of payables and binding
15 encumbrances on which the transfers under Subsection (b) of this
16 section were based prove to have been underestimated, the
17 comptroller may reclaim money transferred under Subsection (b) of
18 this section to the extent the comptroller determines is necessary
19 to pay a claim that is legally payable from an appropriation that
20 was encumbered to pay the claim before the expiration of the
21 appropriation but the balance of which is insufficient to pay the
22 claim. The comptroller, in reclaiming money under this subsection,
23 shall reclaim the money from each fund established by this section
24 in the same proportion as the revenues were transferred to the
25 funds.

26 (k) [~~(g)~~] During each fiscal biennium, the amount in the
27 economic stabilization fund may not exceed an amount equal to 10

1 ~~percent of the total amount, excluding investment income, interest~~
2 ~~income, and amounts borrowed from special funds, deposited in~~
3 ~~general revenue during the preceding biennium.~~

4 ~~[(h)]~~ In preparing an estimate of anticipated revenues for a
5 succeeding biennium as required by Article III, Section 49a, of
6 this constitution, the comptroller shall estimate the amount of the
7 transfers that will be made under Subsections (b), (g) ~~[(d)]~~, and
8 (h) ~~[(e)]~~ of this section. The comptroller shall deduct that amount
9 from the estimate of anticipated revenues as if the transfers were
10 made on August 31 of that fiscal year.

11 ~~[(i) The comptroller shall credit to general revenue~~
12 ~~interest due to the economic stabilization fund that would result~~
13 ~~in an amount in the economic stabilization fund that exceeds the~~
14 ~~limit in effect under Subsection (g) of this section.~~

15 ~~[(j) The comptroller may transfer money from the economic~~
16 ~~stabilization fund to general revenue to prevent or eliminate a~~
17 ~~temporary cash deficiency in general revenue. The comptroller~~
18 ~~shall return the amount transferred to the economic stabilization~~
19 ~~fund as soon as practicable, but not later than August 31 of each~~
20 ~~odd-numbered year. The comptroller shall allocate the depository~~
21 ~~interest as if the transfers had not been made. If the comptroller~~
22 ~~submits a statement to the governor and the legislature under~~
23 ~~Article III, Section 49a, of this constitution when money from the~~
24 ~~economic stabilization fund is in general revenue, the comptroller~~
25 ~~shall state that the transferred money is not available for~~
26 ~~appropriation from general revenue.]~~

27 (l) Money ~~[(k) Amounts from the economic stabilization~~

1 ~~fund]~~ may be appropriated from the budget stabilization fund during
2 a regular legislative session only for a purpose for which an
3 appropriation from general revenue was made by the preceding
4 legislature and may be appropriated in a special session only for a
5 purpose for which an appropriation from general revenue was made in
6 a preceding regular or special legislative session of the same
7 legislature. ~~[An appropriation from the economic stabilization~~
8 ~~fund may be made only if the comptroller certifies that~~
9 ~~appropriations from general revenue made by the preceding~~
10 ~~legislature for the current biennium exceed available general~~
11 ~~revenues and cash balances for the remainder of that biennium. The~~
12 ~~amount of an appropriation from the economic stabilization fund may~~
13 ~~not exceed the difference between the comptroller's estimate of~~
14 ~~general revenue for the current biennium at the time the~~
15 ~~comptroller receives for certification the bill making the~~
16 ~~appropriation and the amount of general revenue appropriations for~~
17 ~~that biennium previously certified by the comptroller.~~
18 ~~Appropriations from the economic stabilization fund under this~~
19 ~~subsection may not extend beyond the last day of the current~~
20 ~~biennium. An appropriation from the economic stabilization fund~~
21 ~~must be approved by a three-fifths vote of the members present in~~
22 ~~each house of the legislature.~~

23 ~~[(1) If an estimate of anticipated revenues for a succeeding~~
24 ~~biennium prepared by the comptroller pursuant to Article III,~~
25 ~~Section 49a, of this constitution is less than the revenues that are~~
26 ~~estimated at the same time by the comptroller to be available for~~
27 ~~the current biennium, the legislature may, by a three-fifths vote~~

1 ~~of the members present in each house, appropriate for the~~
 2 ~~succeeding biennium from the economic stabilization fund an amount~~
 3 ~~not to exceed this difference. Following each fiscal year, the~~
 4 ~~actual amount of revenue shall be computed, and if the estimated~~
 5 ~~difference exceeds the actual difference, the comptroller shall~~
 6 ~~transfer the amount necessary from general revenue to the economic~~
 7 ~~stabilization fund so that the actual difference shall not be~~
 8 ~~exceeded. If all or a portion of the difference in revenue from one~~
 9 ~~biennium to the next results, at least in part, from a change in a~~
 10 ~~tax rate or base adopted by the legislature, the computation of~~
 11 ~~revenue difference shall be adjusted to the amount that would have~~
 12 ~~been available had the rate or base not been changed.]~~

13 (m) ~~[In addition to the appropriation authority provided by~~
 14 ~~Subsections (k) and (l) of this section, the legislature may, by a~~
 15 ~~two-thirds vote of the members present in each house, appropriate~~
 16 ~~amounts from the economic stabilization fund at any time and for any~~
 17 ~~purpose.~~

18 ~~[(n)]~~ Money appropriated from a fund established by this
 19 section ~~[the economic stabilization fund]~~ is subject to being
 20 withheld or transferred, within any limits provided by statute and
 21 this section, by any person or entity authorized to exercise the
 22 power granted by Article XVI, Section 69, of this constitution.

23 ~~[(o) In this section, "net" means the amount of money that~~
 24 ~~is equal to the difference between gross collections and refunds~~
 25 ~~before the comptroller allocates the receipts as provided by law.]~~

26 SECTION 4. The following temporary provision is added to
 27 the Texas Constitution:

1 TEMPORARY PROVISION. (a) This temporary provision applies
2 to the amendments to Section 22, Article VIII, Section 49a, Article
3 III, and Section 49-g, Article III, of this constitution, proposed
4 by the 79th Legislature, Regular Session, 2005, restricting the
5 rate of growth of appropriations from all sources of revenue except
6 the federal government to a rate equal to the sum of the estimated
7 rate of growth of the state's population and the estimated rate of
8 inflation in the state and establishing three special funds to
9 replace the economic stabilization fund. This temporary provision
10 expires December 1, 2007.

11 (b) On September 1, 2007, the comptroller shall transfer all
12 money held in the economic stabilization fund to the funds
13 established by the amendments to Section 49-g, Article III, of this
14 constitution. The comptroller shall transfer:

15 (1) three percent of the money to the emergency
16 expense fund;

17 (2) 15 percent of the money to the budget
18 stabilization fund; and

19 (3) the remainder of the money to the property tax
20 payers rebate fund.

21 (c) The changes made to Section 22, Article VIII, Section
22 49a, Article III, and Section 49-g, Article III, of this
23 constitution by the amendments apply only in relation to
24 appropriations made for the state fiscal biennium beginning
25 September 1, 2007, and subsequent state fiscal bienniums.
26 Appropriations for the state fiscal biennium that began September
27 1, 2005, are governed by Section 22, Article VIII, Section 49a,

1 Article III, and Section 49-g, Article III, as they existed
2 immediately before the amendment was approved by the voters.

3 (d) The changes made to Section 49-g, Article III, of this
4 constitution by the amendments with regard to transferring money
5 into the emergency expense fund, the budget stabilization fund, and
6 the property tax payers rebate fund apply beginning with any
7 unencumbered positive balance of general revenues on August 31,
8 2007, and with oil or gas production taxes received after that date.

9 SECTION 5. This proposed constitutional amendment shall be
10 submitted to the voters at an election to be held November 7, 2006.
11 The ballot shall be printed to permit voting for or against the
12 proposition: "The constitutional amendment to (1) replace the
13 state's rainy day fund with funds reserved for emergency
14 expenditures, budget stabilization, and rebates to property tax
15 payers; and (2) limit the rate of growth of the state budget paid
16 from all sources of revenue except the federal government to a rate
17 equal to the sum of the rate of growth of the state's population and
18 the rate of inflation."